

**Notice of Allowability**

Application No.

10/728,204

Applicant(s)

BOVO ET AL.

Examiner

Benjamin Su

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/03/2003.
2. ☒ The allowed claim(s) is/are 1-18.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☒ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on 09/12/2002. It is noted, however, that applicant has not filed a certified copy of the EU application as required by 35 U.S.C. 119(b).

### ***Allowable Subject Matter***

1. Claims 1 – 18 are allowed.
2. The following is an examiner's statement of reasons for allowance:

Ennis, JR. et al. (US 5521907) disclose a method of calculating round trip delay between any two points of interest in a communications network comprising:

Two probes, a first probe and a second probe, locating at different points of interest between the sender and the receiver (see column 2, lines 53 – 55);

Pre-configuring a set amount of data to be captured by the probes (see column 3, lines 9 – 12);

Identifying and time-stamping packets collected by the probes (see column 3, lines 40 – 45);

Comparing the time-stamp of collected packets to determine the round trip delay between the two points of interest.

Dawes et al. (US 7123589) disclose a method of calculating round trip delay between two nodes comprising:

Determining a first round trip delay between a common node and a first node (see column 7, lines 22 – 25, line 41);

Determining a second round trip delay between a common node and a second node (see column 7, lines 22 – 25, line 42);

Determining a total round trip delay between the first node and second node (see column 7, lines 46 – 47).

Shorey et al. (US 20020174216) disclose a method of passively probing a network performance of a TCP/IP network comprising:

Calculating a round trip delay between a source and a probe (see paragraph 166, lines 1 – 2);

Calculating a round trip delay between the probe and a destination (see paragraph 167, lines 1 – 2).

Ennis, JR. et al. and Dawes et al. and Shorey et al., separately or in combination, fail to teach, regarding claims 1 – 18, “comparing timestamps of the preset number of acknowledgments with timestamps of packets received by the probe during a time period before the sequence of acknowledgments to determine an estimated value for a round trip time between the probe and the receiver; comparing the timestamps for the preset number of acknowledgments with timestamps of packets received by the probe during a time period after the sequence of

acknowledgments to determine an estimated value for a round trip time between the probe and the sender".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Su whose telephone number is 571-270-1423. The examiner can normally be reached on Monday - Friday 10 - 3 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BZS

*Benjamin Su*

*Ricky Q. Ngo*  
RICKY Q. NGO  
SUPERVISORY PATENT EXAMINER  
5/11/07